

Connections

Michigan Foster Care Review Board Program

Advocating for Permanency through Reviews and Collaboration

Summer 2002

Foster Parent Appeals before Citizen Foster Care Review Boards

Introduction

Since 1998, foster parents in Michigan have been permitted by statute (1997 Public Act 163) to appeal a decision to remove a child from their home. The foster parent appeal process was a result of Lieutenant Governor Connie Binsfeld's Children's Commission which was created by executive order in 1995 to review the Michigan child welfare system. This article details how the appeal process evolved, how it operates, observations from the first years of operation, and some thoughts on the process.

Impetus for Foster Parent Appeals

Children move in and out of foster homes every day. Moves are precipitated by going home, moving to live with other siblings, placement with relatives, adoption, or sometimes because the current placement just isn't working out. Usually, there's a good reason for the move, i.e., it's in the ward's best interests.

But to foster parents, not always.

Behind every move there is a caseworker, and occasionally a court order. If the move is the result of a court order, it is assumed the court has weighed the circumstances and decided the move is in the child's best interests. However, sometimes the move is perplexing, and appears to be the result of a dispute between the foster parent and the caseworker. Perhaps the caseworker was offended by an overly assertive foster parent. Perhaps the youth told the caseworker privately that he doesn't like the foster home, but doesn't want to hurt the foster parents' feelings by telling them so. Maybe the caseworker believes different foster parents could more ably meet the youth's needs.

Commission Holds Hearings

Foster parents testified before the Binsfeld Children's Commission. They told of situations where children who had been placed in their foster homes for months, and sometimes years, were suddenly and unexpectedly removed with little notice or preparation. They indicated they were not given rational explanations about why the children were being moved. They felt left out of the loop and not a part of the

"team" they were told would include them when they were licensed. They felt they had no recourse, and were frustrated and angry.

The Commission listened and responded. Among the laws that resulted from the Binsfeld Commission was 1997 Public Act 163, which established a statewide foster parent appeal process. Foster parents would be able to take their concerns regarding the removal of children from their home to an impartial body. They would have the opportunity to be heard.

Rather than creating an entirely new program to implement the appeal process, the Lieutenant Governor recommended

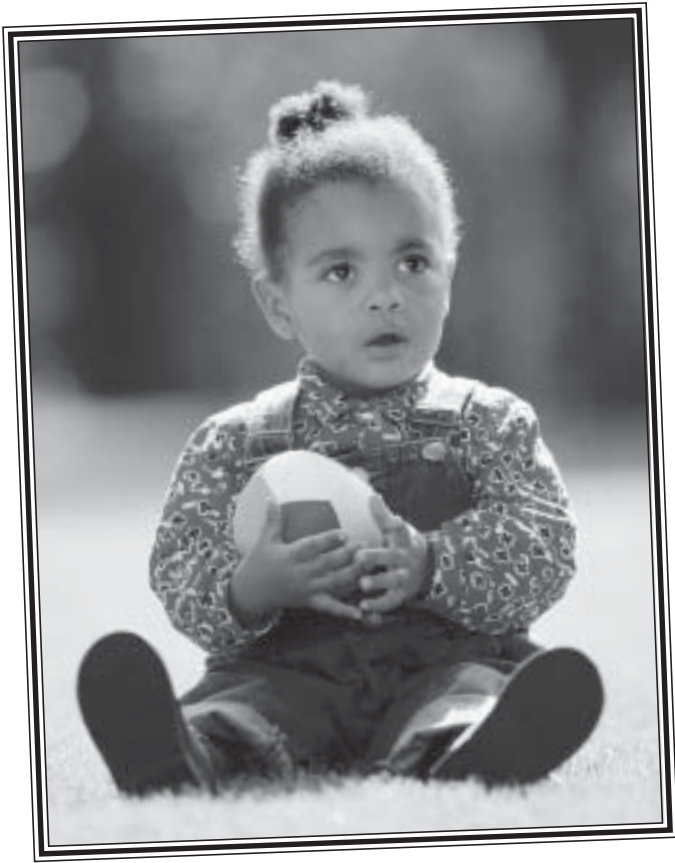


utilizing the existing Foster Care Review Board Program (FCRBP). Up until 1998, citizen review boards had been implemented only in the largest counties. To assure that all foster parents would have access to an appeal process, the

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Lieutenant Governor urged the legislature to expand the FCRBP statewide and use it as the vehicle for the appeals. Public Act 163 implemented the Lt. Governor's plan.

Key Features of the Statute

1. The foster parents may not appeal if the agency is changing the ward's placement as the result of:
 - a court order which returns the child home;
 - the change is less than 30 days after the initial removal from the home;
 - the change is less than 90 days after the initial removal and the new placement is with a relative; or
 - the foster parent requested or agreed to the change of placement.
2. The agency may move the child to a different placement immediately if the agency has reasonable cause to believe that the child has been a victim of:
 - sexual abuse,
 - non-accidental physical injury, or
 - emotional abuse.

However, the foster parent still has the option of requesting an appeal regarding the circumstances of the removal.

3. The agency must maintain the ward's placement in the foster home until the Foster Care Review Board responds (or in some circumstances, a court hearing is held), unless the child has been moved for one of the reasons above.

4. Upon receiving an appeal request from the foster parent, the FCRBP must investigate the request.
5. If, following the appeal, the FCRBP agrees with the actions taken by the agency, the agency may move the ward and the appeal process ends. If the board agrees with the foster parent that the move should not take place, the agency must maintain the placement until a finding and order by the court, or the MCI Superintendent for MCI wards.
6. Upon receipt of the FCRBP's report, and if the board has found in favor of the foster parents, the court or MCI Superintendent respectively must:
 - set a hearing/review the case within 7 to 14 days; and
 - order the continuation or restoration of the placement unless the court finds that the proposed change in placement is in the child's best interest.

How does the foster parent appeal process work?

The agency with responsibility for the youth must notify the foster parents when a change in placement is anticipated. The agency must also inform the foster parents that if they object to the move, they may appeal within three days to the Foster Care Review Board. If the caseworker believes the foster parent is going to object, s/he must also inform the FCRBP. Additionally, the agency must provide the foster parent with the toll free phone number, which was established to centralize intake on all appeals.

The legislative intent was that the appeal should be handled quickly. Consequently, the FCRBP has only three days to contact board members and interested parties, and to arrange a meeting site. Once it is determined where the appeal will take place, the nearest regional Program office impanels a board of volunteers from the area. Appeal hearings are generally held at the Family Independence Agency in the county where court jurisdiction for the child exists. It is the



board's responsibility to render an opinion only on the placement change, not the overall plan for the ward. Foster parents and agency staff are permitted to contact whomever they wish to invite to the hearing. However, at the appeal, the board will determine with whom it wishes to speak.

Boards get to the core of the dispute by asking pertinent, focused questions. The following questions are routinely asked.

- What is the primary reason for the removal?
- Is/are the reason(s) adequate in terms of the ward's best interests and needs (especially all wards' needs for stability)?
- What are the needs of the ward?
- If the removal involves abuse or neglect allegations, has Protective Services completed an investigation? Were the allegations substantiated?
- Is the ward at risk of harm if remaining in the home?
- If the foster parents are in non-compliance with a rule/policy, is it a minor or major violation? Are there other steps short of removing the ward which could be more appropriate?
- Would a corrective action plan be appropriate? Has a corrective action plan been tried? What were the results?
- Have the foster parents provided an adequate home for the ward? If not, will the agency use this home again, and if so, under what circumstances? If not, does the agency plan to revoke the license?
- Has the agency complied with its ward placing license/policies and/or FIA policy on placement stability? If not, why not?

The final determination by the board is guided by whether they believe that the ward's best interests will be served by this move. They also consider if there are actions which could be taken to make the move less traumatic (even if the move is justified), such as transitional visiting or future contact with the former foster parents.

An average appeal takes from 45-60 minutes. Program staff assist the board in developing the Findings and Recommendations which are recorded on a portable computer. Following the appeal, staff distribute the Findings and Recommendations to the court and agency with copies to the parents, foster parents and to all attorneys for the case.

Observations

Generally, there are several themes repeated in the reviews. Foster parents often wait too long to indicate there is a problem, and the agency waits too long to address problems. Thus, by the time intervention occurs, it is too late to salvage the placement. Sometimes it appears that agencies move a child without justification, in a display of control. A case

conference or mediation would perhaps help the interested parties to take a problem solving approach as to what is in the child's best interests.

Sometimes the foster parent believes the agency's anticipated next placement is not what the child needs. It's not so much that the foster parent doesn't want to relinquish care of the child, it's that they don't agree with the next placement. There's a sense on the part of the foster parent that, after having a foster child in their home for eighteen months or so, they know what's best for him or her. They believe the agency should have asked for their opinion before moving the ward.

Child initiated issues are not uncommon. Often, when an older child is questioned privately, s/he will indicate that "yes," they do want to change placements, but they don't want to offend or upset the foster parent. So, the child tells the



foster parent they want to stay, while telling the caseworker they want to leave. After speaking to the youth privately, boards sometimes enter a finding reflecting the dilemma. Boards have become creative in writing findings and recommendations that capture what they think is in the ward's best interests without negating the foster parents' involvement or the agency's role. Findings and recommendations often point out the benefits of both sides without offending either while still focusing on the child's best interests.

Discussion, Conclusion, and Final Thoughts

Experience indicates that neither foster parents nor caseworkers especially want to go before a review board. Their goal is really to work out the problem for the benefit of the ward. Holding a case conference, or scheduling a mediation, between the foster parents and the agency caseworker and supervisor, may help the parties achieve a mutual solution by giving both sides the opportunity to air

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their concerns. With the shortage of good foster homes, every effort must be taken to strengthen this necessary component of the child welfare system.

Individuals initially involved in drafting the foster parent appeal law hoped that the portent of an appeal hearing would prompt the agency to avoid capricious moves and hold case conferences whenever a difficult move was anticipated. As observed over the past few years of appeals, this belief seems to have been validated. In fact, after the initial phone call from the foster parent and subsequent call to the agency, the FCRBP office often indicates to the agency contact person that the information provided suggests a case conference, or a mediation, might resolve the conflict. Program staff advise the agency that if they do in fact resolve the issue through case conference or mediation, which must be done immediately because of the short three day time frame for the board to hold the hearing, a call back to the FCRBP office will cancel the hearing. As an added precaution, the FCRBP asks the foster parent to confirm the mutual resolution and put their retraction in writing. It is important that the Program office not be construed as coercive in the foster parent's retraction.

The child foster care system is very complex. Because it has so many components - children, parents, foster parents, caseworkers, attorneys, therapists, prosecutors, and judges - a breakdown in any part of the system can delay a child's movement to permanency. Each component of the system is focused primarily on its own part in the process. Judges have to bring it all together to arrive at the best plan for the child. Historically, the average citizen had no idea what happened to children in foster care. Citizen review boards are an excellent opportunity for the community at large to witness the foster care system. Volunteers bring their life experiences with them to reviews. They reflect their communities in overseeing how vulnerable, abused children are treated by the system that was developed to protect them. Good volunteers can be excellent spokespersons in the community. They can speak out credibly for the best interests of all children based on their review board experience. They can act as an extension to agencies that might need better funding or more service components. They can act as an extension of the court by providing more eyes and ears to the welfare of children in the system. Foster parent appeals are just one more component of the citizen review process that utilizes volunteers to give back to their community.

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Hall of Justice Dedication Ceremony

OCTOBER 8, 2002 ♦ 12:00 P.M.

925 W. OTTAWA

(CORNER OF MARTIN LUTHER KING JR. BLVD. AND OTTAWA STREETS)
LANSING, MI

The dedication of the new Hall of Justice is scheduled for Tuesday, October 8 at noon on the steps and front entrance to the Hall of Justice.

The day will begin with the opening ceremony of the term of the Supreme Court in the old courtroom on the third floor of the Capitol Building. The Court may hear one oral argument at the Capitol, and there will be a speaker who will talk about the history of the Court. When those proceedings are finished, the Justices will be joined by retired Justices, current and retired Court of Appeals judges, and trial court judges in a procession from the Capitol to the Hall of Justice. Chief Justice Corrigan will preside over the ceremony, which will last approximately one hour.

The ceremony is planned for outdoors. If the weather doesn't cooperate, the ceremony will be moved indoors to the conference room on the first floor of the Hall of Justice. We hope this does not happen as the seating capacity indoors would be much more limited.

Everyone is invited and the ceremony is being held around noon to allow as many people as possible to attend.

Review board members are encouraged to participate.

Tours of the Learning Center, the Supreme Court and the Court of Appeals courtrooms will be conducted following the ceremony.

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